IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Bail Appl..No. 6802 of 2007()

PETITIONER/ACCUSED

NAVAS, S/O ASSANKOYA,
AGED 23 YEARS, KIZHAKKETHACHAMKODE HOUSE,
PUTHUPADI AMSOM, PADOOR DESOM.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: COMPLAINANT & STATE
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1. **SUB INSPECTOR OF POLICE,**
   THAMARASSERY POLICE STATION,
   KOZHIKODE.

2. **STATE OF KERALA, REPRESENTED BY**
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6802 of 2007

Dated this the 7th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the husband of the defacto complainant. He faces allegations under Section 498 A and 323 I.P.C. He is alleged to have been guilty of matrimonial cruelty of the culpable variety against his wife. His mother in law was also allegedly assaulted by him. That offence alleged is only a bailable offence. The wife and the mother in law, it is alleged, were admitted in the hospital. No serious injury whatsoever has been suffered by them. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The marriage between the spouses took place only on 18.03.07. There is some strain in the matrimony. On account of such strain in the matrimony, false and frivolous allegations are being raised against the petitioner, contends the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application, but concedes that no serious injury has been suffered by the defacto complainant or her mother. Having considered all the relevant inputs, I am satisfied that directions under Section 438 Cr.P.C can be issued in favour of the petitioner. In coming to this conclusion, I take note of

the reality that arrest and incarceration of the petitioner is likely to mar all chances of harmonious settlement of the matrimonial dispute. I further take note of the circumstance that no serious injury whatsoever has been suffered by the victims. Appropriate conditions can of course be imposed.

4. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 15.11.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 1 p.m on 16.11.2007 and 17.11.2007 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months. Subsequently the petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall

thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 15.11.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 15.11.07.

(R.BASANT, JUDGE)

rtr/-